

## REMARKS

In accordance with the foregoing, new independent device claim 24 and new independent method claim 25 have been added, each thereof generic to remaining, pending claims herein, as hereinafter specified.

Original independent claims 1-6 have been amended to dependent form, depending from new, generic independent device claim 24.

Independent claim 7 is amended but without change of substance and thus, properly remains within the designated Species I of the Action.

Claims 8-14 are cancelled.

Independent method claim 15, designated to be in Species I in accordance with the Action, is amended to depend from new, generic independent method claim 25; method claims 16-18 and 20 likewise have been amended to depend from independent generic method claim 25.

Claims 19, 21 and 22 are cancelled.

## **DEFECTIVE ELECTION/RESTRICTION REQUIREMENT OF ITEM 1 IN THE ACTION:** **WITHDRAWN AS IS REQUESTED**

The Examiner states that the application contains claims directed to the following patentably distinct species of the claimed invention:

- I) Specification embodiments I, VII, and X (defined by claims 1, 7 and 15);
- II) Specification embodiments II and XI (defined by claims 2 and 16);
- III) Specification embodiments III and XII (defined by claims 3 and 17);
- IV) Specification embodiments IV and XIII (defined by claims 4 and 18);
- V) Specification Embodiments V and XIV (defined by claims 5 and 19);
- VI) Specification Embodiments VI and XV (defined by claims 6 and 20); and
- VII) Specification Embodiments VIII, IX, and XVI (defined by claims 8-14 and 21-23).

**AMENDMENTS TO THE DRAWINGS:**

The attached drawing(s) include changes to FIGS. 10 and 11. FIGS. 10 and 11 are misnumbered and have been reversed.

For the convenience of the Examiner, an annotated sheet showing the changes made is attached. Approval of these changes to the Drawings is respectfully requested.

The Examiner's above listings are confusing, since employing two different sets of Roman numerals.

The left column of Roman numerals (first set) corresponds to what the Examiner considers the seven patentably distinct species.

For each of the Species I to VII, the Action cites "Specification embodiments" identified likewise by Roman numerals I to XVI (second set); whereas I to VIII appear to correlate to claims 1 to 8, the remaining Roman numerals IX to XV are not understood. No explanation whatsoever is supplied as to their intended meaning.

The only suggestion of what the Examiner deems to constitute the separate "patentably distinct species" are the parenthetically set forth in groups of claims.

However, the rules regarding restriction and election of species requirement make clear that "claims," per se, are not normally to be considered as defining separate species. The Examiner, however, has used that as his sole basis for defining his seven patentably distinct species. [see MPEP 804.04(e)]

Contrary to the Examiner's approach, the Brief Description of the Drawings at pages 9-10 of the specification defines seven different embodiments and correlates these to respective figures, or groups of figures, as follow:

#### **Embodiments Defined in Relation to Figures**

##### Embodiments (per Brief Description, pages 9-10)

<u>Embodiments</u>	<u>Figs.</u>
I	6-12
II	13
III	
IV	14-16
V	17
VI	18-19
VII	20-25

The Examiner, however, has ignored this more conventional correlation of embodiments to figures.

Applicants accordingly respectfully object to the Action as being indefinite and Applicants request that the same be withdrawn and a proper election of species action be presented in a replacement Office Action.

**ELECTION, UNDER PROTEST AND WITH TRAVERSE**

Applicants accordingly protest the action as defective but nevertheless are making a good faith effort to respond, electing the Examiner's group of claims 1, 7 and 15 in Species I (i.e., first set), with traverse.

Applicants note that claims 1 and 7 are independent device claims and claim 15 is an independent method claim. Applicants further observe that the Action asserts that "no claims are generic" (see Action at page 2). Applicants respectfully traverse that finding and submit that new independent device and method claims 24 and 25 presented herein are generic.

Further, independent device claims 1-6 are amended to depend from new claim 24.

In like fashion, independent method claims 15-18 and 20 are amended to depend from new generic method claim 25.

Original dependent method claim 23 furthermore is amended to depend from new generic method claim 24.

Remaining claims are cancelled as specified hereinabove.

Accordingly, Applicants elect Species I and list claims 1, 7, 15, 24 and 25 as reading thereon.

Each of device claims 2-6 and method claims 16-20 respectively of the Examiner's designated Species Romans II-VI have been amended to dependent form and respectively depend from new independent and generic device claim 24 and new, independent and generic method claim 25 and all thereof should be subject to examination at this time.

To the extent the Examiner continues to enforce the current requirement for election of species, the Applicants nevertheless respectfully request that claims 2-6 and 16-20 be retained in a withdrawn state, to be reinstated in the event that the generic claims 24 and 25 or claims equivalent thereto are allowed herein, at which time rejoinder is requested.

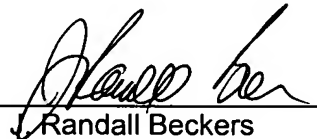
If there are any additional fees associated with filing of this Amendment, please charge the same to our Deposit Account No. 19-3935.

Respectfully submitted,

STAAS & HALSEY LLP

Date: February 17, 2005

By: \_\_\_\_\_



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Fig. 10

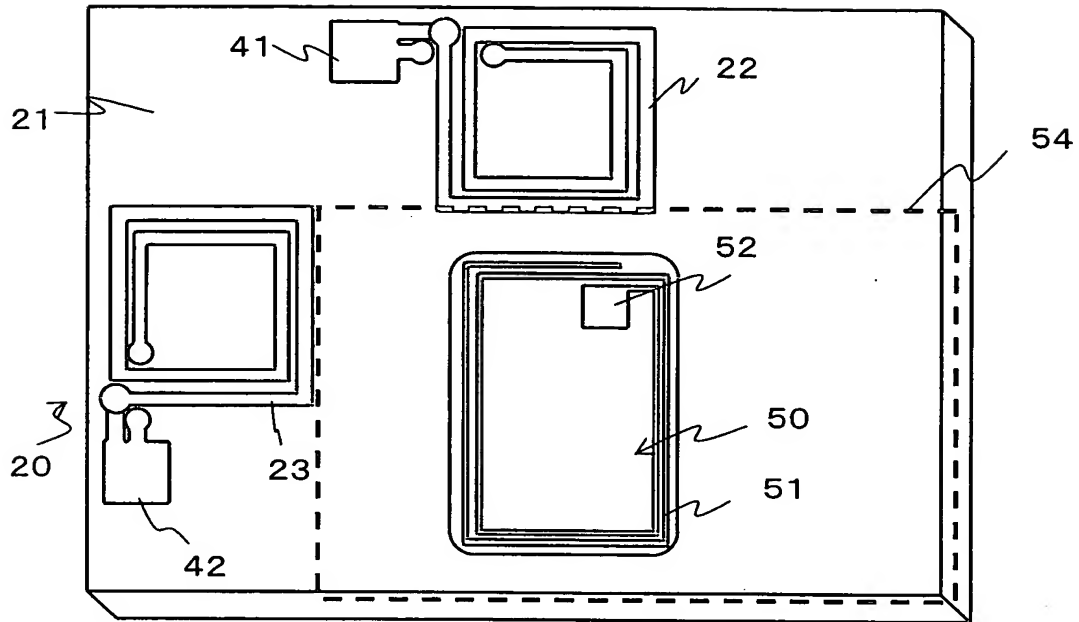


Fig. 11

